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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/580,527

06/11/2007

Chris Henri

505525

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53609

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06/23/2008

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EXAMINER

GRAHAM, MARK S

ART UNIT

PAPER NUMBER

3711

NOTIFICATION DATE

DELIVERY MODE

06/23/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RockMail@reinhartlaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,527	<b>Applicant(s)</b> HENRI, CHRIS	
	<b>Examiner</b> Mark S. Graham	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/26/06</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 5, line 3, "the tip end curve" lacks proper antecedent basis leaving the intent of the claim indefinite.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Le Feill. Note fig. 3 which shows the non-linear nature of the taper of Le Feill's tip end. Relative to a particularly sized cue tip end Le Feill's tip end will have a reduced diameter and an increased flexibility.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Russell. Note figs. 2A through 2D which show the non-linear nature of the taper of Russell's tip end. Relative to a particularly sized cue tip end Russell's tip end will have a reduced diameter and an increased flexibility.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell.

Concerning claims 2 and 3, Russell does not disclose the exact dimensions of his non-linear cue stick although they appear to be on the order of that claimed by applicant. Absent a showing of unexpected results it would have been obvious to one of ordinary skill in the art to have varied the dimensions of Russell's stick depending on the particular feel desired in the stick by an individual player.

Regarding claims 6 and 7 the examiner takes official notice that the particularly claimed wood material and the method of reducing the material to form a cue stick are commonly known. It would have been obvious to one of ordinary skill in the art to have used such woods and reducing techniques to form Russell's cue as well based on their proven and predictable results.

Claims 2, 3, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeFiell.

Concerning claims 2 and 3, LeFiell does not disclose the exact dimensions of his non-linear cue stick although they appear to be on the order of that claimed by applicant. Absent a showing of unexpected results it would have been obvious to one of ordinary skill in the art to have varied the dimensions of LeFiell's stick depending on the particular feel desired in the stick by an individual player.

Regarding claims 6 and 7 the examiner takes official notice that the particularly claimed wood material and the method of reducing the material to form a cue stick are commonly known. Although LeFiell's cue is made of metal it would have been obvious to one of ordinary skill in the art to have used such woods and reducing techniques to

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form LeFiell's cue as well based on their proven and predictable results if an individual player desired a wood cue of the LeFiell model.

The other prior art cited on the PTO '892 form has been provided to show other articles which are similar to that claimed by applicant.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG  
6/18/08

/Mark S. Graham/  
Primary Examiner, Art Unit 3711